THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION NO.22841 OF 2005

Between:-

G.Balram Reddy.

…Petitioner.

And

The Election Officer, Primary Agricultural Co-operative Society, Makthal.

…Respondent.

Date: 24-10-2005.

ORDER:

Heard the learned counsel appearing for the petitioner and the Government Pleader.

Pursuant to the Election Notification dated 14-10-2005, the petitioner filed his nomination on 19-10-2005 for the post of Director of Primary Agricultural Co-operative Society, Maktal from ward No.11. The elections are scheduled to be held on 26-10-2005. The nomination of the petitioner has been rejected on 19-10-2005 on the ground that he incurred disqualification as he was convicted by a Criminal Court in C.C.No.179 of 2001 (Cr.No.10/2001 of P.S. Makthal) on the file of Judicial Magistrate of First Class, Narayanpet by Judgment dated 6-7-2005 and therefore, the said conviction is disqualification within the meaning of Section 21-A(1)(J) of the A.P.Co-operative Societies Act, 1964.

Under Section 21-A(1)(j), "no person shall be eligible for being

chosen as, and for being, a member of the committee, if he is convicted by a Criminal Court for an offence involving moral delinquency. If such any person is convicted by a Criminal Court for an offence involving moral delinquency is disqualified for membership of the society for a period of five years from the date of conviction or where he is sentenced to imprisonment while undergoing sentence and for a period of five years from the date of expiration thereof".

I have perused the Judgment of the learned Judicial Magistrate of First Class, Narayanpet. The Criminal prosecution is not for the offence dealing with the moral delinquency, but it is for the offence that he caused damage to the property in respect of the construction work worth Rs.50/-. Accordingly, he was found guilty for the offence under Section 147 read with Section 149 of the Indian Penal Code and a fine of Rs.200/- and Rs.300/- respectively was imposed and in default, he was directed to undergo Simple Imprisonment for a period of 10 days. Admittedly, the said offences said to have been committed by the petitioner do not relate to the moral delinquency. Therefore, the rejection of nomination of the petitioner under Section 21-A(1)(j) is illegal.

Accordingly, the rejection order of the Electionn Officer, dated 19-120-2005 is set aside and the respondent is directed to treat the nomination of the petitioner as valid nomination and permit the petitioner to contest in the election.

The Writ Petition is allowed accordingly.

_____

V.ESWARAIAH, J

Date: 24-10-2005.

Shr